

GEORGE TYRONE DUNLAP, JR.,) 2:12-cv-01370-JCM-VCF
)
 Plaintiffs,)
)
 vs.) **ORDER**
)
 WARDEN D. NEVEN, et al.,)
)
 Defendants.)
)

Pursuant to the court's screening order (doc. # 10), plaintiff was permitted to proceed on five counts in his amended complaint (doc. # 11) against High Desert State Prison's warden and various correctional officers (collectively "defendants"). These counts allege various civil rights violations, specifically that defendants tampered with plaintiff's food tray, put his handcuffs on extra tight, locked him inside a shower cage while other inmates spit and tossed urine on him, sexually abused him, and performed sexually abusive strip searches on him. (Doc. # 11).

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On March 10, 2014, Magistrate Judge Ferenbach entered a report and recommendation (doc. # 79), recommending the following:

- (1) granting defendants' motion to partially dismiss (doc. # 57);
- (2) denying defendants' motion for partial summary judgment (doc. # 57);
- (3) denying plaintiff's motion for discovery (doc. # 62);
- (4) denying defendants' motion to stay discovery as moot (doc. # 67); and
- (5) denying plaintiff's motion for default (doc. # 77).

Pro se plaintiff makes three objections (doc. # 84), none of which are actually pertinent to the magistrate judge's findings or recommendations. Plaintiff's first objection pertains to a motion for a preliminary injunction which was resolved in an order entered on April 14, 2014 (doc. # 91). In his second objection, plaintiff argues that the magistrate judge did not make a finding regarding defendant Ryan Hesler. Defendant Hesler was dismissed from this action pursuant to an order entered on June 27, 2014 (doc. # 98). Lastly, plaintiff's third "objection" is a request for copies which cannot be addressed in this order.¹

This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1).

Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as

¹ Pursuant to District of Nevada Special Order 109(III)(F)(4), a separate document must be filed on the docket for each purpose. The court cannot consider plaintiff's request unless it is filed separately, as a motion.

1 adopting the view that district courts are not required to review “any issue that is not the subject of an
2 objection.”). Thus, if there is no objection to a magistrate judge’s recommendation, then this court may
3 accept the recommendation without review. *See, e.g., Johnstone*, 263 F. Supp. 2d at 1226 (accepting,
4 without review, a magistrate judge’s recommendation to which no objection was filed).

5 Nevertheless, this court finds it appropriate to engage in a de novo review to determine whether
6 to adopt the recommendation of the magistrate judge. Upon reviewing the recommendation and
7 underlying briefs, this court finds good cause appears to ADOPT the magistrate judge’s findings in full.

8 Accordingly,

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the report and
10 recommendation of Magistrate Judge Ferenbach (doc. # 79) be, and the same hereby is, ADOPTED in
11 its entirety.

12 IT IS FURTHER ORDERED that defendants’ motion to partially dismiss (doc. # 57) is
13 GRANTED.

14 IT IS FURTHER ORDERED that counts one, two, and three of plaintiff Dunlap’s amended
15 complaint are DISMISSED with prejudice.

16 IT IS FURTHER ORDERED that defendants’ motion for partial summary judgment (doc. # 57)
17 is DENIED.

18 IT IS FURTHER ORDERED that plaintiff Dunlap’s motion for discovery (doc. # 62) is
19 DENIED.

20 IT IS FURTHER ORDERED that defendants’ motion to stay discovery (doc. # 67) is DENIED
21 as moot.

22 IT IS FURTHER ORDERED that plaintiff’s motion for default judgment (doc. # 77) is DENIED.

23 DATED June 30, 2014.

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25 
26 UNITED STATES DISTRICT JUDGE
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